

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupation Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 43 of Title 17 of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to amend the requirements for licensure in the District of Columbia; add regulations for licensure by endorsement which will accept a passing score from any regional board examination for applicants that have been actively engaged in the practice of Dental Hygiene in another state for the three (3) years immediately preceding the date of applying for licensure in the District of Columbia; to change the name of the District Examination to the District of Columbia Dental Law Examination; to amend § 4311 regarding the administration of anesthesia and nitrous oxide training by dental hygienist to include regulations for obtaining and maintaining certification and to amend the educational and training requirements necessary to obtain certification to be more in line with the requirements in other states; to amend the education and training requirements for dental hygienists to administer local anesthesia and nitrous oxide; and to amend the continuing education requirements to require dental hygienists to obtain continuing education in infection control and maintain current cardio pulmonary resuscitation certification.

Proposed Rulemaking was published on June 3, 2005, at 52 DCR 5306. No written comments were received during the thirty (30) day comment period from the public in connection with this notice. After publication the Board of Dentistry made additional amendments to the regulations to further ensure that all applicants for dental licensure in the District would be properly educated and trained before obtaining licensure. Specifically, the proposed rulemaking was amended to require that applicants who have passed a regional board examination other than the North East Regional Board examination must also have been actively engaged in the practice of Dental Hygiene in another state for the three (3) years prior to applying for licensure in the District in order to obtain licensure.

Therefore, the rulemaking was republished on January 27, 2006 at 53 DCR 561. The Board received written comments from the District of Columbia Dental Society and the District of Columbia Dental Hygienists' Association in connection with this notice. The Board also received comments from the Director of the Howard University Dental Hygiene Program. The Board has amended the proposed rulemaking to remove the requirement of biennial renewal of the dental hygiene certification to administer local anesthesia and nitrous oxide and instead grant a continuing authorization in its place; to clarify the permissible functions of dental hygienists, and to amend the continuing education requirements to include cardiopulmonary resuscitation for healthcare providers and infection control.

Therefore, the rulemaking was republished in the *D.C. Register* on June 29, 2007 at 54 DCR 006453. Public comments were received from the D.C. Dental Society. However, no changes

have been made from the rulemaking published on June 29, 2007. These final rules will be effective upon publication of this notice in the *D.C. Register*.

17 DCMR Chapter 43, DENTAL HYGIENE, is amended to read as follows:

Section 4302.2 is amended to read as follows:

4302.2 An applicant shall submit an official certificate of graduation in a sealed envelope from the educational institution to the Board with the completed application.

Section 4303.2 is amended to read as follows:

4303.2 An applicant under this section, in lieu of meeting the requirements of § 4302.1, shall do the following:

- (a) Submit to the Board an official transcript and a copy of the degree or diploma indicating that the applicant has completed a professional program in the field of dental hygiene in any country other than the United States or its territories, or the Dominion of Canada; and
- (b) Submit to the Board proof that the applicant has successfully completed the National Board of Dental Hygiene Examination.

The Section heading for 4304 is amended to read as follows:

4304 LICENSURE BY EXAMINATION

Section 4304.1 is amended to read as follows:

4304.1 To qualify for a license by examination, an applicant shall:

- (a) Meet the education requirements set forth under § 4302.1 or § 4303 of this chapter; and
- (b) Receive a passing score on the following:
 - (1) The National Board of Dental Hygiene Examination;
 - (2) The Northeast Regional Board (NERB) examination; and
 - (3) The District of Columbia Dental Law Examination.

Section 4304.2 is amended to read as follows:

4304.2 To apply for a license by examination, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
 - (1) The applicant's social security number on the application; and
 - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2") which clearly expose the area from the top of the forehead to the bottom of the chin.
- (b) Submit an official certificate of graduation in a sealed envelope from the educational institution(s) to the Board, which shall verify that the applicant meets the educational requirements set forth under § 4302.1 or 4303.1 of this chapter;
- (c) Submit the applicant's examination results, which have been certified or validated by the NERB and the National Board of Dental Hygiene Examination;
- (d) Pass the District of Columbia Dental Law Examination; and
- (e) Pay all required fees.

Section 4304.4 is amended to read as follows:

- 4304.4 An applicant who has successfully completed the NERB examination ten (10) or more years prior to the date of receipt by the Board of the application for licensure shall be required to retake the NERB examination, unless the applicant is applying for licensure by endorsement pursuant to § 4309 of this chapter.

Section 4305 is amended to read as follows:

4305 DISTRICT OF COLUMBIA DENTAL LAW EXAMINATION

- 4305.1 To qualify for a license under this chapter, all applicants without exception shall receive a passing score on a written examination developed by the Board on laws and rules pertaining to the practice of dentistry and dental hygiene (the District of Columbia Dental Law Examination).
- 4305.2 Repealed
- 4305.3 The District of Columbia Dental Law Examination may consist of questions on general District laws pertaining to dentistry and dental hygiene including the Act, this chapter, and chapters 40, 41, and 42 of this title.

Section 4306.1 is amended to read as follows:

- 4306.1 Except as provided in § 4306.2, this section applies to applicants for the renewal, reactivation, or reinstatement of a license for a term expiring December 31, 2009.

Section 4306.2 is amended to read as follows:

- 4306.2 This section shall not apply to applicants for an initial license by examination or endorsement and shall not apply to applicants for the first renewal of a license granted by examination.

Section 4306.4 is amended to read as follows:

- 4306.4 An applicant for renewal of a license shall submit proof pursuant to § 4306.7 of having completed fifteen (15) hours of approved continuing education credit, which shall include current CPR certification for healthcare providers at the basic level and two (2) hours of infection control training, obtained within the two (2) year period preceding the date the license expires.

Section 4306.5 is amended to read as follows:

- 4306.5 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act, D.C. Official Code § 3-1205.11 (2001) who submits an application to reactivate a license shall submit proof pursuant to § 4306.7 of having completed fifteen (15) hours of approved continuing education credit, which shall include current CPR certification for healthcare providers at the basic level and two (2) hours of infection control training, obtained within the two (2) year period preceding the date of the application for reactivation of that applicant's license and an additional eight (8) hours of approved continuing education credit for each additional year that the applicant was in inactive status beginning with the third year.

Section 4306.6 is amended to read as follows:

- 4306.6 To qualify for a license, an applicant for reinstatement of a license shall submit proof pursuant to § 4306.7 of having completed fifteen (15) hours of approved continuing education credit, which shall include current CPR certification for healthcare providers at the basic level and two (2) hours of infection control training, obtained within the two (2) year period preceding the date of the application for reinstatement of the applicant's license and an additional eight (8) hours of approved continuing education credit for each additional year that the license was expired beginning with the third year.

A new section 4306.12 is added to read as follows:

- 4306.12 Not more than eight (8) continuing education units ("CEUs") for approved internet continuing education courses may be accepted in any renewal period, or for reinstatement or reactivation of a license.

A new section 4306.13 is added to read as follows:

- 4306.13 Internet courses and programs shall not be used to satisfy the continuing education CPR certification requirement.

Section 4308.2 is amended to read as follows:

- 4308.2 For approved undergraduate courses, each semester hour of credit shall constitute fifteen (15) hours of continuing education credit.

Section 4309 is amended to read as follows:

4309 LICENSURE BY ENDORSEMENT

- 4309.1 An applicant is eligible to apply for licensure by endorsement in the District of Columbia if the applicant:
- (a) Meets the education requirements set forth under § 4302.1 or § 4303 of this chapter;
 - (b) Has successfully completed the National Board of Dental Hygiene Examination;
 - (c) Is currently licensed, in good standing, to practice dental hygiene in another state of the United States; and
 - (d) Has passed one of the following:
 - (1) The NERB examination;
 - (2) A regional board examination, other than the NERB examination, and meets the active practice requirement set forth in § 4309.3(f); or
 - (3) A state dental examination determined by the Board to be substantially equivalent, and meets the active practice requirements set forth in § 4309.3(f) of this chapter.
- 4309.2 An applicant, holding an active license to practice dental hygiene in any other U.S. state, who has passed the NERB examination, shall apply for licensure by endorsement as follows:

- (a) Submit a completed application to the Board on the required forms and include:
 - (1) The applicant's social security number on the application; and
 - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2") which clearly expose the area from the top of the forehead to the bottom of the chin.
- (b) Submit a copy of his or her current license with the application;
- (c) Obtain verification from each state in which the applicant holds or has ever held a professional health occupation license, that the license is current and in good standing, or if the license is no longer active, that it was in good standing immediately prior to its expiration. The licensure verification form shall be sent directly to the Board, by the verifying Board;
- (d) Submit the applicant's NERB examination results, which have been certified or validated by the NERB;
- (e) Submit the applicant's National Board of Dental Hygiene examination results, which have been certified or validated by the National Board of Dental Hygiene Examination;
- (f) Pass the District of Columbia Dental Law Examination; and
- (g) Pay all required fees.

4309.3

An applicant, holding an active license to practice dental hygiene in any other U.S. state, who has passed a regional board examination, other than the NERB examination, shall apply for licensure by endorsement as follows:

- (a) Submit a completed application to the Board on the required forms and include:
 - (1) The applicant's social security number on the application; and
 - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2") which clearly expose the area from the top of the forehead to the bottom of the chin.
- (b) Submit a copy of his or her current license with the application;
- (c) Obtain verification from each state in which the applicant holds or has ever held a professional health occupation license, that the license is current and in good standing, or if the license is no longer active, that it was in good standing immediately prior to its expiration. The licensure verification form must be sent directly to the Board, by the verifying Board;

- (d) Submit the applicant's regional board examination results, which have been certified or validated by the regional board;
- (e) Submit the applicant's National Board of Dental Hygiene examination results, which have been certified or validated by the National Board of Dental Hygiene Examination;
- (f) Submit evidence satisfactory to the Board establishing that the applicant has been actively engaged in the practice of dental hygiene in another U.S. state, in good standing, for the three (3) years immediately preceding the application, and has at least one hundred and fifty (150) hours of active dental hygiene practice. The practice of dental hygiene in the armed forces, state and federal programs, and intern and residency programs may be counted toward the required hours of active practice;
- (g) Pass the District of Columbia Dental Law Examination; and
- (h) Pay all required fees.

4309.4 In addition to the requirements set forth in this section, the Board may, in its discretion, require an applicant for licensure by endorsement to take and successfully complete a competency examination, or any portion thereof deemed necessary by the Board, as a prerequisite to licensure if the applicant's licensure in any state was ever denied, revoked, or suspended for incompetency or inability to practice in a safe manner.

4309.5 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned, and closed by the Board. The applicant shall thereafter be required to reapply, submit the required documents and completed forms, and pay the required fees.

4309.6 Nothing in this section shall be construed to prohibit the Board from utilizing other authorized databases to verify an applicant's current licensure standing in other jurisdictions of the U.S. or to review disciplinary records.

Section 4310.2 is amended to read as follows:

4310.2 In addition to the functions listed in § 4310.1, a dental hygienist may perform the following functions under the direct supervision of a licensed dentist, as authorized by § 102(4)(A)(vi) of the Act, D.C. Official Code §3-1201.2 (4)(A)(vi) (2001):

- (a) Monitoring of nitrous oxide;
- (b) Administration of local anesthesia with board identified criteria and

authorization;

- (c) Administration of nitrous oxide with board identified criteria and authorization;
- (d) Placement of periodontal dressings;
- (e) Placement of temporary restorations;
- (f) Removal of temporary restorations;
- (g) Removal of periodontal dressings;
- (h) Removal of sutures;
- (i) Taking of study cast impressions;
- (j) Placement and removal of rubber dams; and
- (k) Bleaching.

Section 4310.3(g) is amended to read as follows:

4310.3 (g) Placement and removal of matrices; and

A new section 4310.3(h) is added to read as follows:

4310.3 (h) Any function that is defined as the practice of dentistry under the Act unless specifically authorized under this subchapter.

Section 4311 is amended to read as follows:

4311 ADMINISTRATION OF LOCAL ANESTHESIA AND NITROUS OXIDE BY DENTAL HYGIENISTS

4311.1 A licensed dental hygienist authorized by the District of Columbia Board of Dentistry ("Board") to administer local anesthesia or nitrous oxide pursuant to this section may administer local anesthesia or nitrous oxide in the District of Columbia.

4311.2 A licensed dental hygienist authorized by the Board to administer local anesthesia and nitrous oxide shall administer local anesthesia and nitrous oxide only under direct supervision of a dentist licensed under the Act.

- 4311.3 A licensed dental hygienist authorized by the Board to administer local anesthesia and nitrous oxide shall maintain current CPR certification for healthcare providers at the basic level. This training shall include use of either an automated external defibrillator or a defibrillator and electrocardiograph.
- 4311.4 An applicant for authorization to administer local anesthesia and nitrous oxide shall do the following:
- (a) Submit a completed application and pay the required fee;
 - (b) Submit a copy of a valid CPR certification for healthcare providers at the basic level; and
 - (c) Demonstrate to the satisfaction of the Board that he or she has:
 - (1) Applied for licensure under this chapter as a dental hygienist, or has been issued a license under this chapter as a dental hygienist;
 - (2) Satisfactorily completed a training program or course of study in a formal program in the administration of local anesthesia and nitrous oxide meeting the requirements set forth in § 4311.6; and
 - (3) Satisfactorily completed a written examination(s) in the administration of local anesthesia and nitrous oxide administered by the Northeast Regional Board of Dental Examiners (NERB), other regional board, state board, or any agency approved by the Board.
- 4311.5 An applicant who is authorized to administer local anesthesia and nitrous oxide in another state may apply for authorization to administer in the District by submitting the following:
- (a) A completed application and payment of the required fee;
 - (b) A copy of a valid CPR certification for healthcare providers at the basic level;
 - (c) Verification of his or her authorization to administer local anesthesia and nitrous oxide in the other state or jurisdiction; and
 - (d) Demonstrate to the satisfaction of the Board that he or she has:
 - (1) Applied for licensure under this chapter as a dental hygienist, or has been issued a license under this chapter as a dental hygienist;
 - (2) Satisfactorily completed a training program or course of study in a formal program in the administration of local anesthesia and nitrous oxide which

is substantially similar to the training program requirements set forth in § 4311.7; and

- (3) Satisfactorily completed a written examination(s), not more than ten (10) years prior to the date of the application, in the administration of local anesthesia and nitrous oxide administered by the Northeast Regional Board of Dental Examiners (NERB), other regional board, state board, or any agency recognized by the Board.

4311.6 The training program or course of study required in § 4311.4 shall meet the following requirements:

- (a) Be provided by a dental or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association; or an entity certified by the American Dental Association Continuing Education Recognition Program (CERP) which;
- (b) Consists of a minimum of twenty (20) didactic hours and twelve (12) clinical hours; and
- (c) Has a curriculum that includes but is not limited to the following topics:
 - (1) Anatomy of head, neck and oral cavity;
 - (2) Nitrous oxide administration;
 - (3) Recordkeeping;
 - (4) Armamentarium exercise;
 - (5) Local anesthesia and nitrous oxide;
 - (6) Neurophysiology;
 - (7) Pharmacology of local anesthetics and nitrous oxide;
 - (8) Pharmacology of vasoconstrictors;
 - (9) Potential local and systematic complications;
 - (10) Recognition and management of post-injection complications and reactions to injections;
 - (11) Contraindications;
 - (12) Medical and dental history evaluation procedures including psychological evaluation;

- (13) Proper infection control techniques and proper disposal of sharps; and
- (14) Hands-on practice, under direct supervision, including at least three clinical experiences in each of the following:
 - (A) Basic injection techniques;
 - (B) Basic placement techniques;
 - (C) Techniques of maxillary anesthesia;
 - (D) Techniques of mandibular injections; and
 - (E) Partner injections and partner administration of nitrous oxide;

A new section 4312.3 is added to read as follows:

4312.3 Any holder of a license under this Chapter or any person authorized to practice dental hygiene under this Chapter shall comply with the Code of Ethics established by the American Dental Hygienists' Association as it may be amended or republished from time to time.

Section 4399.1 is amended to add the following:

NERB—North East Regional Board of Dental Examiners, Inc.

NERB Examination- the examination in dental hygiene offered by the North East Regional Board of Dental Examiners, Inc., or its successor.

Regional Board- the examination in dental hygiene offered by the North East Regional Board of Dental Examiners, Inc. or an equivalent national or regional clinical testing agency recognized by the Board.

DEPARTMENT OF HEALTH**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Title 17 of the District of Columbia Municipal Regulations (DCMR). The Board of Medicine of the District of Columbia took final action to adopt the following amendments to the rules governing the health care profession of surgical assistants. The Board considered all comments made during the public comment period. No changes have been made to the text of the proposed rules, as published with the Notice of Proposed Rulemaking in the *D.C. Register* on July 20, 2007, at 54 DCR 006986. These final rules will be effective upon publication of this notice in the *Register*.

Amend Title 17 (Business, Occupations & Professions) (May 1990) by adding a new Chapter 80 to read as follows:

Chapter 80: SURGICAL ASSISTANTS**8000 GENERAL PROVISIONS**

- 8000.1 This chapter shall apply to applicants for and holders of a license to practice as a surgical assistant.
- 8000.2 Chapter 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) shall supplement this chapter.

8001 TERM OF LICENSE

- 8001.1 Subject to § 8001.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of December 31 of each even-numbered year.
- 8001.2 If the Director changes the renewal system pursuant to § 4006.3 of chapter 40 of this title, a license issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birthdate of the holder of the license or other date established by the Director.

8002 RENEWAL OF LICENSE

- 8002.1 The holder of a license to practice as a surgical assistant shall renew

his or her license by submitting a completed application on the forms required by the Advisory Committee on Surgical Assistants and paying the required fees prior to the expiration of the license.

- 8002.2 A licensed holder applying for renewal of a license to practice as a surgical assistant shall submit evidence of current national certification as a surgical assistant, as applicable, by the National Surgical Assistant Association or the American Board of Surgical Assistants or, their successors.

8003 LICENSURE REQUIREMENTS

- 8003.1 An applicant shall furnish proof satisfactory to the Board in accordance with § 504 of the Act, D.C. Official Code § 3-1205.04 that the applicant has met one of the following requirements:

- (a) Earned a degree or certification from a surgical assistant program accredited by the Commission for the Accreditation of Allied Health Educational Programs, or by the commission's successor; or
- (b) Successfully completed a dedicated training program for surgical assistants in the armed forces; or
- (c) Demonstrated to the satisfaction of the Board the completion of fulltime work experience performed in the United States under the direct supervision of a physician licensed in the United States and consisting of at least 1,300 hours of performance as a surgical assistant within the 3 years preceding the date of the application

- 8003.2 Additionally, an applicant shall submit proof satisfactory to the Board in accordance with § 504 of the Act, D.C. Official Code § 3-1205.04 that the applicant was certified as a surgical assistant by at least one of the following:

- (1) The National Surgical Assistant Association; or
- (2) The American Board of Surgical Assistants.

8004 TRANSITION TO LICENSURE

- 8004.1 All references to surgical assistants shall be deemed to refer to persons meeting the requirements for licensure in the District, regardless of whether they are licensed in fact, until March 6, 2009.

8005-8007 [RESERVED]

8008 CONTINUING EDUCATION REQUIREMENTS

- 8008.1 This section shall apply to applicants for the renewal, reactivation, or reinstatement of a license for a term expiring December 31, 2008, and for subsequent terms.
- 8008.2 An applicant for renewal of a license to practice as a surgical assistant shall submit proof pursuant to § 8008.6 of having completed during the two-year (2) period preceding the date the license expires approved continuing education units (CEUs) constituting fifty (50) hours of CEU credit as specified in § 8009.2.
- 8008.3 A continuing education credit may be granted only for a program or activity approved by the Board in accordance with § 8009.
- 8008.4 A surgical assistant who is required to obtain continuing education units pursuant to § 8008.2 may, in lieu of meeting the requirement of that section through the completion of CEUs approved by the Board pursuant to § 8009, furnish proof satisfactory to the Board that the surgical assistant holds a current valid certification from the American Board of Surgical Assistants or the National Surgical Assistant's Association and has completed fifty (50) hours of CEUs over a two-year (2) period as part of that certification.
- 8008.5 An applicant for reactivation of an inactive license or reinstatement of a license to practice as a surgical assistant shall submit proof pursuant to § 8008.6 of having completed during the two-year (2) period immediately preceding the date of application approved CEUs.
- 8008.6 An applicant under this section shall furnish proof of having completed required continuing education units by submitting with the application the following information:
- (a) The name of the program and its approval number;
 - (b) The dates on which the applicant attended the program or performed the activity;
 - (c) The hours of credit claimed; and
 - (d) Verification by the applicant of completion.

**8009 APPROVED CONTINUING EDUCATION PROGRAMS AND
ACTIVITIES**

8009.1 The Board, in its discretion, may approve continuing education programs and activities that contribute to the knowledge, skills, and professional performance and relationships that a surgical assistant uses to provide services to patients, the public or the profession and that meet the other requirements of this section.

8009.2 The Board may approve continuing education programs and activities for credit that are as follows:

(a) Sponsored, co-sponsored, or accredited by:

(1) The National Surgical Assistants Association, the American Board of Surgical Assistants, the Association of Surgical Technologists/Association of Surgical Assistants, or the National Board of Surgical Technology and Surgical Assisting;

(2) The Accreditation Council for Continuing Medical Education;

(3) Designated for AOA Category 1-A credit approved by the American Osteopathic Association; or

(4) A state medical society.

8009.3 An applicant shall have the burden of verifying whether a program or activity is approved by the Board pursuant to this section prior to attending the program or engaging in the activity.

8010-8012 [RESERVED]**8013 SCOPE OF PRACTICE**

8013.1 A surgical assistant shall, in accordance with this chapter and the Act, have the authority to perform the following tasks:

(a) Provide local infiltration or the topical application of a local anesthetic and hemostatic agents at the operative site;

(b) Incise tissues;

(c) Ligate and approximate tissues with sutures and clamps;

- (d) Apply tourniquets, casts, immobilizers, and surgical dressings;
- (e) Check the placement and operation of equipment;
- (f) Assist in moving and positioning the patient;
- (g) Assist the surgeon in draping the patient;
- (h) Prepare a patient by cleaning, shaving, and sterilizing the incision area;
- (i) Retract tissue and expose the operating field area during operative procedures;
- (j) Place suture ligatures and clamp, tie, and clip blood vessels to control bleeding during surgical entry;
- (k) Use cautery for hemostasis under direct supervision;
- (l) Assist in closure of skin and subcutaneous tissue;
- (m) Assist in the cleanup of the surgical suite; and
- (n) Check and restock the surgical suite.

8013.2 A surgical assistant shall not perform the following tasks;

- (a) Perform any surgical procedure independently;
- (b) Prescribe any medications or controlled substances; or
- (c) Write any progress notes or orders on hospitalized patients, except operative notes.

8014 SUPERVISING SURGEON

8014.1 To be authorized to supervise a surgical assistant, a physician must be currently licensed as a physician in the District. The license must be unrestricted and active.

8014.2 A supervising surgeon shall perform the critical portions of a surgical procedure. Supervision shall be continuous, and shall require that the delegating physician be immediately available in the surgical suite for delegated acts that the surgical assistant performs and to respond to any emergency until the patient is released from the surgical suite and care has been transferred to another physician, or until the surgical assistant has completed his or her tasks and has been excused by the supervising

surgeon. Telecommunication is insufficient for supervision purposes or as a means for directing delegated acts.

8014.3 It is the responsibility of each team of physician(s) and surgical assistant(s) to ensure that:

- (a) The surgical assistant's scope of practice is clearly defined;
- (b) Delegation of medical tasks is appropriate to the surgical assistant's level of competence;
- (c) The relationship between the members of the team is defined;
- (d) That the relationship of, and access to, the supervising surgeon is defined; and
- (e) A process for evaluation of the surgical assistant's performance is established.

8015 TITLE PROTECTION

8015.1 Unless authorized to practice as a surgical assistant under this act, a person shall not use or imply the use of the words or terms "surgical assistant", or "S.A.", or any similar title or description of services with the intent to represent that the person practices as a surgical assistant.

8016 DUTIES OF ADVISORY COMMITTEE ON SURGICAL ASSISTANTS

8016.1 The Advisory Committee on Surgical Assistants shall consist of five (5) members appointed by the Mayor. One member of the Committee shall be a surgeon licensed in the District with experience working with surgical assistants, three members shall be surgical assistants licensed in the District, and one shall be the Director of the Department of Health, or his or her designee. The Committee shall advise the Board on all matters pertaining to this chapter and shall meet at least annually to review the guidelines for the licensing and regulation of surgical assistants and shall make necessary revisions for submission to the Board.

8016.2 Upon request of the Board, the Committee shall review applications for a license to practice as a surgical assistant and make recommendations to the Board.

8016.3 Upon request of the Board, the Committee shall review complaints regarding surgical assistants referred by the Board and make recommendations to the Board regarding what action should be taken.

8099 **DEFINITIONS**

8099.1 As used in this chapter the following terms have the meanings ascribed:

Board – the Board of Medicine, established by § 203(a) of the Act, D.C. Official Code § 3-1202.03(a) (1) (2001).

Committee – the Advisory Committee on Surgical Assistants, established by § 203 (c-3) of the Act. D.C. Official Code § 3-1202.03(c-3) (2001).

Immediately available – physically present in the surgical suite and capable of responding to the surgical assistant and the patient as medically appropriate.

Practice by surgical assistants – means the provision of aid by a person who is not a physician licensed to practice medicine, under the direct supervision of a surgeon licensed in the District, in exposure, hemostasis, closures, and other intraoperative technical functions that assist a physician in performing a safe operation with optimal results for the patient.

Surgical assistant – a person licensed to practice as a surgical assistant under the Act, or meeting the requirements for licensure in the District, regardless of whether he or she are licensed in fact, until March 6, 2009.

Surgical suite – includes the operating room as well as contiguous recovery rooms.

Supervising surgeon – a surgeon licensed by the Board who delegates to a licensed surgical assistant surgically assisting and oversees and accepts responsibility for the surgical assisting.

8099.2 The definitions in § 4099 of chapter 40 of this title and the Act are incorporated by reference into and are applicable to this chapter.

**D.C. DEPARTMENT OF HUMAN RESOURCES
METROPOLITAN POLICE DEPARTMENT**

NOTICE OF FINAL RULEMAKING

The Director, D.C. Department of Human Resources, and the Chief, Metropolitan Police Department, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title VIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-608.01 *et seq.*) (2001), hereby gives notice that final rulemaking action was taken to adopt the following rules. These rules amend section 807.1 (e) of Chapter 8, Career Service, of Title 6 of the District of Columbia Municipal Regulations (DCMR), for the purpose of providing that a former member of the Metropolitan Police Department may be reinstated to a rank no higher than the rank last held. Additionally, the rulemaking made the following amendments: (1) an amendment to section 813.3 of the chapter, to add a provision stating that an employee who enters on active military duty before he or she completes probation shall be required to complete the remaining portion of the probationary period upon the employee's return from active military duty, provided that the employee has restoration rights in accordance with section 827 of the chapter; and (2) amendments to section 822 of the chapter on "*Temporary Appointment Pending Establishment of a Register*" or "*TAPER*," to clarify the conditions for such appointments, including extensions, and conversion and termination provisions. No comments were received and no changes were made under the notice of proposed rulemaking published at 54 DCR 7258 (7/27/07). Final rulemaking action was taken on September 21, 2007.

CHAPTER 8

CAREER SERVICE

Chapter 8 of the D.C. Personnel Regulations is amended as follows:

Section 807.1 is amended to read as follows:

807 AGE REQUIREMENTS

807.1 Notwithstanding the provisions of section 803.2 of this chapter, the following specific age requirements shall be the only age requirements for employment in the Career Service:

- (a) Except as otherwise provided herein, the minimum age requirement for employment in the Career Service shall be sixteen (16) years old;
- (b) For initial appointment to a firefighter position in the Fire and Emergency Medical Services Department (FEMSD), an applicant shall have reached his or her nineteenth (19th) birthday, but must not have passed his or her thirty-first (31st) birthday as of the date of application;

- (c) For reinstatement to a rank no higher than the rank last held, a former uniformed member of the FEMSD shall not have passed his or her thirty-fifth (35th) birthday at the time of application and shall meet the following requirements:
 - (1) Submit his or her request for reinstatement in writing to the Fire Chief;
 - (2) Successfully pass a background investigation; and
 - (3) Be found physically qualified based on successfully passing a medical examination and any other examinations or tests required by the FEMSD of an entry-level candidate; except that no former member shall be required to take the entry-level written examination again;
- (d) For initial appointment with the Metropolitan Police Department (MPD) to a police private position, an applicant shall have reached his or her twenty-first (21st) birthday, and shall have applied for appointment prior to his or her thirty-fifth (35th) birthday; except that an individual who has successfully completed the D.C. Police Cadet Training Program may be appointed to a probationary police officer position after having reached his or her twentieth (20th) birthday;
- (e) The Chief of Police may consider a uniformed member for reinstatement to the MPD to a rank no higher than the rank last held, after the former member meets the following requirements:
 - (1) Submit his or her request for reinstatement in writing to the Police Chief;
 - (2) Successfully passes a background investigation; and
 - (3) Is found physically qualified based on successfully passing a medical examination and any other examinations or tests required by the MPD of an entry-level candidate; except that no former member shall be required to take the entry-level written examination again;
- (f) As authorized under 5 U.S.C. § 3307, for initial entry into positions subject to the Civil Service Retirement system under 5 U.S.C. § 8336 (c), which does not include those covered under sections 807.1 (b) and (c) of this section, the maximum age shall be thirty-four (34); and
- (g) As authorized under D.C. Official Code § 1-2513 (b) (2001), it shall not be an unlawful discriminatory practice to establish minimum and maximum age limits for appointment to police officer cadet or firefighter cadet positions; and
- (h) Notwithstanding the provisions of 807.1(a) of this section, the Director, D.C. Department of Human Resources and the Police Chief, unless specifically prohibited by law or regulation, may establish higher minimum age requirements for appointment to specific positions or classes of positions, or to positions established under specific employment programs.

Section 813.3 is amended to read as follows:

- 813.3 (a) An employee who is transferred under this chapter, or promoted or reassigned under this chapter before he or she completes probation, shall be required to complete the remaining portion of the probationary period in the new position.
- (b) An employee who enters on military duty before he or she completes probation shall be required to complete the remaining portion of the probationary period upon the employee's return from active military duty, provided that he or she has restoration rights in accordance with section 827 of this chapter.

The heading of the section is changed from "TAPER;" and sections 822.1 through 822.6 are amended to read as follows:

822 TEMPORARY APPOINTMENT PENDING ESTABLISHMENT OF A REGISTER (TAPER)

- 822.1 A personnel authority may fill a vacancy to a permanent Career Service position by a "Temporary Appointment Pending Establishment of a Register" or "TAPER," under the following circumstances:
- (a) When there are insufficient eligibles on an appropriate register or in the absence of a list of eligibles; and
- (b) Authorization to appoint outside the register via a TAPER is granted by the personnel authority.
- 822.2 A person being considered for a TAPER shall meet the minimum qualifications requirements for the position.
- 822.3 The following conditions shall apply to extensions and termination of each TAPER processed by the personnel authority:
- (a) A TAPER shall be terminated as soon as a list of eligibles for the permanent appointment can be established and a selection is made by open competition in accordance with this chapter.
- (b) The initial TAPER shall not exceed ninety (90) days; and shall not be extended more than one (1) time, for a period of up to ninety (90) days, and only if the personnel authority determines that a list of eligibles cannot be created.
- 822.4 A person hired in a TAPER may be converted to a Career Appointment Probational or Career Appointment Permanent only if one (1) of the following is true:
- (a) The person is otherwise eligible for such conversion under the provisions of this chapter; or
- (b) The person is selected for the permanent position as a result of open competition.

- 822.5 Except as specified in this section, the person hired under a TAPER shall not be subject to the job protection rights of chapters 16 and 24 of these regulations; and shall receive rights and benefits accorded by this chapter to temporary Career Service employees.
- 822.6 For the purposes of this section, the term "open competition" referred to in sections 822.3 and 822.4 means "competition open to the general public."

DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance, Securities, and Banking, pursuant to the authority set forth in section 125 of the Insurance Trade and Economic Development Amendment Act of 2000, effective April 3, 2001 (D.C. Law 13-265; D.C. Official Code § 31-2231.25)(2001), hereby gives notice of the adoption of the following amendments to section 5000 of Chapter 50 (Unfair Trade Practices) of Title 26 (Insurance) of the District of Columbia Municipal Regulations. The amendments will modify the permissible reasons for which an insurer may non-renew or cancel a policy of homeowners' insurance, and for the use of claims history information.

A notice of the proposed rules was published in the *D.C. Register* on July 27, 2007 (54 DCR 30). No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Section 5000 of Chapter 50 (Unfair Trade Practices) of Title 26 (Insurance) of the District of Columbia Municipal Regulations is amended to read as follows:

**5000 PERMISSIBLE REASONS FOR NON-RENEWAL/CANCELLATION
AND USE OF CLAIMS HISTORY INFORMATION**

- 5000.1 An insurer shall not refuse to renew a policy of homeowners' insurance solely due to claim or loss frequency unless there have been two (2) or more claims during the preceding three (3) year period. For the purposes of this subsection, an insurer shall not consider:
- (a) The first claim for a loss caused by weather, unless the insurer can provide evidence that the insured unreasonably failed to maintain the property and such failure to maintain contributed to the loss;
 - (b) Any claim that was reported to the insured's agent or insurer as an inquiry for which no payment was made by the insurer;
 - (c) A loss for which there was no investigation or other claim activity; or
 - (d) Any losses caused by a catastrophic event. For the purposes of this paragraph, the term "catastrophic event" means a manmade or natural event that causes twenty-five million dollars (\$25,000,000) or more in insured property losses and affects multiple property and casualty policyholders or insurers.

- 5000.2 An insurer shall not refuse to renew a policy of homeowners' insurance solely because of damages requiring repairs that are discovered during a renewal or loss inspection, unless the insurer has allowed the insured a reasonable time-frame in which to repair the damages.
- 5000.3 An insurer shall comply with the rate making standards of section 3 of An Act to provide for regulation of certain insurance rates in the District of Columbia, and for other purposes, approved May 20, 1948 (62 Stat. 243; D.C. Official Code § 31-2703 (2001)) with respect to any increase in the premium on a policy of homeowners' insurance that is due to claim or loss frequency, including any policy surcharge, movement between classes or tiers, or the removal or reduction of a discount. All such increases in premium shall be consistent with the insurer's filed rate plan.
- 5000.4 An insurer shall provide a notice to its homeowners' insurance policyholders that the insurer considers claims history in determining whether to renew the policy. Such notice may be on the declarations page or on a separate notice that accompanies the policy so long as the notice is conspicuous and includes the following statement: "Your insurer may consider your claims and loss history when determining whether to renew your policy."
- 5000.5 Anytime an insurer attempts to cancel or non-renew a policy of homeowner's insurance based on an insured's claims or loss history, the insurer shall specify the reasons for such action and such reasons shall include the date of the claim or loss, the amount of the claim or loss, the type of insurance applicable to the claim or loss, the name of the insurer of the claim or loss, and a brief statement of the circumstances that caused the claim or loss. Such specification of reasons shall include enough information so that the insured can have an adequate basis for refuting the accuracy of any claim or loss history specified as reasons for the cancellation or non-renewal decision of the insurer.
- 5000.6 An insurer may refuse to renew a policy of homeowners' insurance due to claim or loss frequency based upon standards more restrictive than those set forth in this section if, at the time of policy issuance or renewal, the insurer provided the insured with a conspicuous, written copy of the more restrictive underwriting standards upon which the insurer proposes to base its non-renewal decisions, and an explanation of how the more restrictive underwriting standards differ from those established by any District law or regulation.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, D.C. 20005

NOTICE OF FINAL RULEMAKING

**TELEPHONE TARIFF 07-2, IN THE MATTER OF THE APPLICATION OF
VERIZON WASHINGTON, D.C., INC., FOR AUTHORITY TO AMEND THE
GENERAL SERVICES TARIFF, P.S.C.-D.C.-NO. 203**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,¹ of its final rulemaking action, taken in Order No. 14560 (August 30, 2007), to approve the tariff application of Verizon Washington, D.C. Inc. ("Verizon DC")² amending the following tariff pages:

GENERAL SERVICES TARIFF, P.S.C.-D.C.-NO. 203

Section 4, 6th Revised Page 5

3rd Revised Page 6

2. Through this tariff filing, Verizon DC seeks to increase the monthly recurring rates for Non Published Listing by 14.7 percent (from \$1.02 to \$1.17), Non Listed service by 14.8 percent (from \$0.54 to \$0.62), and Residential Additional Listings by 14.7 percent (from \$2.17 to \$2.49).³ Non Published Listing, Non Listed and Residential Additional Listing services are classified as Discretionary Services under Price Cap Plan 2004, which limits rate increases to 15 percent or less annually.⁴ Verizon DC asserts that the Application complied with the Plan.

3. The Commission issued a Notice of Proposed Rulemaking, published in the *D.C. Register* on July 6, 2007, inviting the public to submit comments on the proposed tariff revision.⁵ No comments were filed. The Commission subsequently approved Verizon DC's Application in Order No. 14560, finding that the proposed tariff revisions were consistent with the requirements of Sections 3(a) and 3(a)(3) of Price Cap Plan 2004. The tariff revisions shall become effective upon the publication date of this Notice of Final Rulemaking in the *D.C. Register*.

¹ D. C. Official Code § 2-505 (2001 Ed.).

² *Telephone Tariff 07-2, In the Matter of the Application of Verizon Washington, D.C., Inc., for Authority to Amend the General Services Tariff, P.S.C.-D.C.-No. 203*, Letter from J. Henry Ambrose, Verizon DC Vice President for State Public Policy to Dorothy Wideman, Commission Secretary, filed June 13, 2007 ("Application").

³ See Application at 1.

⁴ See Application at 1. See also *Formal Case No. 1005, In the Matter of Verizon Washington, D.C. Inc.'s Price Cap Plan 2004 for the Provision of Local Telecommunications Services in the District of Columbia*, Order No. 13370, rel. September 9, 2004. ("Price Cap Plan 2004" or "Plan").

⁵ 54 *D.C. Reg.* 6668 (2007).

DEPARTMENT OF PUBLIC WORKS

NOTICE OF FINAL RULEMAKING

The Director, D.C. Department of Public Works, pursuant to the authority set forth in section 2(c) of the District of Columbia Solid Waste Disposal Act of 1989, effective July 25, 1989 (D.C. Law 8-16; 36 DCR 4155), as amended by the "Solid Waste Disposal Fee Temporary Amendment Act of 2007", effective July 17, 2007 (D.C. Law 17-13), and Mayor's Order 2005-123, dated August 29, 2005, hereby gives notice of the final adoption of the following rules to amend Chapter 7 of Title 21 DCMR, "Water and Sanitation", by amending the fees for the disposal of solid waste at the District's waste-handling facilities.

No comments were received concerning the proposed rulemaking. No changes were made to the proposed rules, which were published with the Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on July 20, 2006, at 54 DCR 7012. These final rules will be effective upon publication of this notice in the *Register*.

Chapter 7 of Title 21, DCMR, is amended as follows:

Section 720.5 is amended to read as follows:

720.5. Beginning on June 29, 2007, the applicable fees for the disposal of construction and demolition debris at the waste-handling facilities shall be eighty two dollars and eighty four cents (\$82.84) for each ton disposed; Provided, that a minimum fee of forty one dollars and forty two cents (\$41.42) shall be imposed on each load weighing one thousand pounds (1,000 lbs.) or less.

Section 720.8 is amended to read as follows:

720.8 Beginning on June 29, 2007, the applicable fees for the disposal of each ton of solid waste at the waste-handling facilities, excluding those wastes specified in §§ 720.5, 720.6, and 720.7, shall be sixty one dollars and seven cents (\$61.07) for each ton disposed; provided, that a minimum fee of thirty dollars and fifty four cents (\$30.54) shall be imposed on each load weighing one-thousand pounds (1,000 lbs.) or less.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z.C. ORDER NO. 07-15

Z.C. Case No. 07-15

(Text Amendments – 11 DCMR)

(Including Accessory Structures in § 223 Special Exception)

September 10, 2007

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01); having held a public hearing and referred the proposed amendments to the National Capital Planning Commission ("NCPC") for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of the adoption of amendments to § 223 (Additions to One-Family Dwellings or Flats) of the Zoning Regulations (Title 11 DCMR). The amendments allow the Board of Zoning Adjustment to approve construction or enlargement of detached garages and other accessory structures as a special exception pursuant to 11 DCMR § 3104. The Commission took final action to adopt the amendments at a public meeting held on September 10, 2007.

This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Regulations

Section 223 of the regulations allows the Board of Zoning Adjustment to approve, as a special exception, additions to one-family dwellings and flats when the proposed addition would not comply with the applicable area requirements of § 401 (minimum lot dimensions), § 403 (percentage of lot occupancy), § 404 (rear yards), § 405 (side yards), and § 406 (courts) as special exceptions, and caps the maximum lot occupancy that can be achieved. The section currently applies only to additions attached to the primary structure and does not apply to new or enlarged accessory structures.

Description of Text Amendment

The Commission initiated this rulemaking in response to a petition filed by the Office of Planning. The text amendment expands the scope of § 223 to include new and expanded accessory structures. The maximum total lot occupancy that can be achieved through § 223 is unchanged.

Z.C. NOTICE OF FINAL RULEMAKING & ORDER NO. 07-15

Z.C. CASE NO. 07-15

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Relationship to the Comprehensive Plan

The amendment is not inconsistent with the goals of the Comprehensive Plan and is consistent with the following policies of the Comprehensive Plan: Policy 2.1.3 which recommends conserving, enhancing, and revitalizing neighborhoods; Policy 2.2.4 which advocates the restoration and improvement of buildings; and Policy H-1.4.7 which supports the renovation and rehabilitation of existing housing stock.

Public Hearing and Proposed Action

The Commission held a public hearing on July 23, 2007 and took proposed action immediately thereafter to approve the advertised text. A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on August 10, 2007 at 54 DCR 7771, for a 30-day notice and comment period.

The Commission received comments on the proposed rulemaking from ANC 2E, and from the Committee of 100 on the Federal City and the Citizens Association of Georgetown, who commented jointly.

ANC 2E stated that it was concerned the proposed amendments would imperil open space and add to the density of development, blur the distinction in R-3 and R-4 Zone Districts between row dwellings and semi-detached dwellings, result in a flood of requests for accessory buildings by special exception, and allow special exception approval of accessory structures that would be used not merely as garages, but as living quarters. ANC 2E requested that the Commission withdraw the proposed rule.

Committee of 100 on the Federal City and the Citizens Association of Georgetown expressed similar concerns, stating that the amendments would serve as an invitation to occupy more open space with accessory buildings, and that they believed the special exception standards are not sufficient to prevent harm to neighbors.

The proposed rulemaking was also referred to NCPC pursuant to § 492 of the District of Columbia Charter. NCPC, by report dated August 30, 2007, found that the proposed text amendment would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan.

The Office of the Attorney General determined that this rulemaking meets its standards of legal sufficiency.

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on September 10, 2007.

Z.C. NOTICE OF FINAL RULEMAKING & ORDER NO. 07-15

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In response to the issues and concerns raised in the written comments, including those submitted by ANC 2E, the Commission is not persuaded that the amendments will have the negative consequences predicted. In many instances the only difference between an addition (which currently can take advantage of the provisions of § 223) and an accessory structure (which cannot) is that the addition has a relatively minor physical connection between the original structure and the new construction, and the accessory structure does not. The special exception provisions of § 223 have been in existence for some time, and the Commission is convinced that the provision continues to strike a good balance between the interest of residents who seek to expand and modernize their homes, and neighbors and other community members. The Board of Zoning Adjustment has not faced an overwhelming number of applications, and existence of the provision has not resulted in an unacceptable reduction of open space and/or unacceptable increase in density. The Commission notes that additions approved under the existing provision of § 223 are not restricted to use as garages, and does not believe there is a need to restrict to accessory buildings to use as garages. Finally, the Commission believes that no purpose will be served by postponing this proceeding. At the time it took final action, the Commission asked the Office of Planning whether further dialogue between it and members of the community would be useful. The Office of Planning indicated that it has been aware of the sentiments expressed in the written comments for some time, but nevertheless remained confident that adoption of the proposed rule was in the public interest. The Commission concurs.

Having acknowledge the written issues of concerns of ANC 2E and having indicated why the Commission does not find the advice persuasive, the Commission accordingly has given ANC 2E the "great weight" to which it is entitled.

No substantive changes were made to the advertised prepared text.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to chapter 2 of the Zoning Regulations, Title 11 DCMR. Section 223 is amended to read as follows (added wording is in **bold** and underlined, and deleted wording is shown in ~~strikethrough~~ lettering):

223 **ZONING RELIEF FOR ADDITIONS TO ONE-FAMILY DWELLINGS OR FLATS (R-1) AND FOR NEW OR ENLARGED ACCESSORY STRUCTURES**

223.1 An addition to a one-family dwelling or flat, in those Residence districts where a flat is permitted, **or a new or enlarged accessory structure on the same lot as a one-family dwelling or flat, shall be permitted even though the addition or accessory structure**

Z.C. NOTICE OF FINAL RULEMAKING & ORDER NO. 07-15

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~~that~~ does not comply with all of the requirements of §§ 401, 403, 404, 405, 406, and 2001.3 shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

223.2 The addition or accessory structure shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- (a) The light and air available to neighboring properties shall not be unduly affected;
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
- (c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage; and
- (d) In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways.

223.3 The lot occupancy of all new and existing structures on the lot ~~the dwelling or flat, together with the addition,~~ shall not exceed fifty percent (50%) in the R-1 and R-2 Districts or seventy percent (70%) in the R-3, R-4, and R-5 Districts.

223.4 The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties.

223.5 This section may not be used to permit the introduction or expansion of a non-conforming use.

Vote of the Zoning Commission taken at its public meeting on July 30, 2007, to **APPROVE** the proposed rulemaking: **4-0-1** (John G. Parsons, Anthony J. Hood, Gregory N. Jefferies, and Michael G. Turnbull to approve; Carol Mitten, not present, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on September 10, 2007, by a vote of **4-0-1** (John G. Parsons, Michael G. Turnbull, Anthony J. Hood, and Gregory N. Jeffries (by absentee ballot) to adopt; Carol Mitten, not participating, not voting).

Z.C. NOTICE OF FINAL RULEMAKING & ORDER NO. 07-15**Z.C. CASE NO. 07-15****PAGE 5**

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is, on OCT - 5 2007.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z.C. ORDER NO. 07-15

Z.C. Case No. 07-15

(Text Amendments – 11 DCMR)

(Including Accessory Structures in §223 Special Exception)

The full text of this Zoning Commission order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.